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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/453,055	12/02/1999	EIKATSU YAMAGUCHI	32405WO27	2115

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SMITH GAMBRELL & RUSSELL LLP  
BEVERIDGE DEGRANDI  
WEILACHER & YOUNG INTELLECTUAL PROPERTY  
1850 M STREET NW SUITE 800  
WASHINGTON, DC 20036

EXAMINER

AFTERGUT, JEFF H

ART UNIT

PAPER NUMBER

1733

13

DATE MAILED: 05/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/453,055

Applicant(s)

YAMAGUCHI ET AL.

Examiner

Jeff H. Aftergut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cundiff et al in view of Lubin (the portion of the "Handbook of Composites") Fellman et al, Ahrens et al and Browne et al and either one of E.P. 588,437 (newly cited) or French Patent 2,772,037 (newly cited).

Cundiff et al taught a process for forming a honeycomb sandwich composite panel comprising the steps of stacking dry fabric 18a, 18b on both sides of a honeycomb core 12 with a thermosetting sealing material (14a, 16a, 14b, 16b) having an adhesive property there between, heating the assembly at the curing temperature of the sealing material (the adhesive films 14a and 14b as well as the prepreg material 16a and 16b) to cause the sealing material to harden, see column 4, lines 4-8 and column 8, lines 64-column 9, line 7, for example, impregnating the dry fabric with a thermosetting resin, see column 4, lines 8-11 and column 9, lines 8-22, and curing the resin of the resin impregnated dry fabric by hot pressing the entire assembly, see column 4, lines 11-14, column 9, lines 23-30. The reference taught the regulation of the temperature during the processing in order to allow for the curing of the resin of the film and the prepreg layer and varied (reduced) the same prior to introduction of the impregnating resin for the dry fiber on the exterior of the assembly in the resin transfer molding operation. The reference failed to make mention of the use a sealing material, however the ultimate purpose of the resin layers 14a, 14b

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as well as the prepreg layers 16a and 16b was to seal off the core such that the core remained hollow after the RTM operation. Thus, in the reference to Cundiff, the sealing material was the combination of the layers 14a and 16a on the one side and 14b and 16b on the other. The reference to Cundiff et al suggested that after the layers 14a, 14b, 16a, 16b were cured the temperature of the mold was lowered in order to prepare the same for impregnation and RTM.

Cundiff et al failed to teach that the sealing layer would have included microspheres of glass therein in the same. However, it was known at the time the invention was made to utilize glass microspheres within resin layers in order to impart stiffness to the material at a reduction in weight and cost relative to the prepreg layers of material and the formation of a laminate of several layers of prepreg material with the glass microspheres was known in the art as useful in the manufacture of aircraft laminate as evidenced by Fellman et al, Ahrens et al and Brown et al.

Fellman et al suggested that those skilled in the art would have understood that syntactic foam layers (which was a layer of thermosetting resin with glass microspheres or microballoons therein) would have been a well known replacement for prepreg layers which were less expensive and yet provided the requisite stiffness needed to make the laminate. Additionally, the reference suggested that those skilled in the art would have known that the resin layers which contained the microspheres would have been laminated alternatively between reinforcement to form the laminates with increased stiffness. To further evidence the same, the reference to Ahrens et al is cited. Note that in Ahrens et al the thermosetting resin with the microspheres therein was formed into a prepreg and then laminated with two prepreg layers there between in the formation of the composite article. The reference suggested that such composites would have been useful in aircraft structures (note that Cundiff et al was assigned to Boeing and that the

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panel formed therein was clearly useful in an aircraft). The reference to Browne et al suggested that the inclusion of a glass microsphere resin layer in a composite would have increased the composites impact resistance and the syntactic foam material employed in the operation conventionally included a scrim layer therein. The reference to Browne made it clear that those skilled in the art would have understood that the desirability of providing glass microspheres within a layer of the sealing material in order to not only increase the stiffness of the composite panel but also to increase the impact resistance of the same.

While it is believed as evidenced above that one skilled in the art at the time the invention was made would have incorporated glass microspheres within the sealing layer for the reasons identified above, none of the references taught or suggested that the incorporation of the microspheres within the layer would have resulted in a layer having improved viscosity properties (i.e. that the microspheres would have been added to enhance the flow characteristics of the resin film layers). It should be pointed out that the reason for making the combination need not be applicant's specific reason and that a prima facie case has been established once there is motivation for making the combination regardless of whether the reason for making the combination was the same reason as applicant's or not, see In re Lintner, 173 USPQ 360, In re Shetty, 195 USPQ 753, In re Hoch, 166 USPQ 406 and In re Wilder, 166 USPQ 545. The references to French Patent '037 and EP '437 are cited to show that those skilled in the art at the time the invention was made would have readily appreciated that microspheres would have been added in resin layers in order to regulate the viscosity of the resin layer during processing and render the resin film more like a prepreg layer. More specifically, the applicant is referred to the abstract of French Patent '037 and pages 2-3 of EP '437 (and the discussion of Syncore®

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therein). Additionally, the applicant is more specifically referred to page 2, lines 46-55 where the flow of the resin film including the microspheres is discussed in EP '437. The applicant is also referred to page 7, lines 25-32 for a discussion of the use of Syncore® with honeycomb layers and the discussion of the scrim layer therein. Clearly, one skilled in the art of composite manufacture desiring a more rigid and stiff panel would have been led to incorporate microspheres within the resin films of Cundiff. Additionally, the incorporation of the glass microspheres within the resin films of Cundiff et al would have been obvious to one of ordinary skill in the art at the time the invention was made where the sealing resin layers included a plurality of glass microspheres as taught by Fellman et al, Ahrens et al and Browne et al for the purpose of increasing the stiffness of the panel at a reduced cost as well as increasing the impact resistance of the panel and wherein incorporation of such microspheres within the resin layers would have controlled the flow properties of the resin film to better correspond to that of a prepreg layer as suggested by either one of E.P. 588,437 or French Patent 2,772,037.

Note that Cundiff et al failed to expressly state that the prepreg layers were ones which were formed from thermosetting resin. As set forth in paper no. 4, the use of the uncured adhesive films 14a, 14b, as well as the use of uncured prepreg layers 16a, 16b were taken as thermosetting sealing material. The applicant has argued that such materials are not thermosetting. However, as set was notoriously well known in the art of adhesives, material which cured during bonding was a thermosetting material. It should be noted that to further evidence the same the glossary from the "Handbook of Composites" from Lubin is cited herein. This is not a new ground of rejection; rather the reference to Lubin is cited to show factually that a curable material is in fact thermosetting. In particular, the applicant is referred to the definition

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of thermoset and cure where when one cured, one changed the properties of the resin with the action of heat or pressure (or both) and where one would have understood that a thermoset resin was a plastic which "when cured" changed into a substantially infusible state. Additionally, the definition of prepreg states that the resin is usually in a "B-stage" and the definition of "B-stage" made it clear that this stage in the curing process was applicable to thermosetting resins. Clearly, the uncured film and the uncured prepreg of Cundiff were indeed thermosetting resins which were not yet completely cured. The applicant is additionally advised as addressed in paper no. 4 that the film and prepreg of Cundiff clearly prevented the resin used to impregnate the dry perform in the resin transfer molding operation from penetrating into the cells of the honeycomb and as such were clearly sealing materials, see column 7, lines 14-26, for example. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the techniques of Cundiff to form a honeycomb assembly which included a core which was left unfilled with resin wherein the same was achieved with sealing films of resin which were used to attach the perform to the core prior to impregnation wherein these uncured films were well recognized as thermosetting as evidenced by Lubin wherein one incorporated glass microspheres within the resin layers in order to impart stiffness to the finished product as well as to better control the flow properties of the resin films as suggested by Fellman et al, Ahrens et al and Browne et al and either one of E.P. 588,437 or French Patent 2,772,037.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form a composite panel with resin impregnated reinforced facings as suggested by Cundiff As to the particular techniques used to produce the glass microballoons within the sealing layers, the applicant is advised that the prepreg layers described above would have

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constituted a resin film and that the glass microspheres were disposed between the same.

Additionally, the references suggested that alternating layers of the prepreg material with the glass microspheres would have been known. Additionally, note that the reference to Browne suggested that the microsphere layer would have included a scrim therein (a carrier layer). A similar teaching may be found in EP '437. Note that the temperature ranges defined by Cundiff were such that the adhesive of the sealing layers would have been capable of curing at a temperature less than the temperature that one performed RTM as defined.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 4-6 and 11-13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Independent claims 6 and 13 state in the preamble "except for the use of a (or the) prepreg material", however there is no support for this in the original disclosure. In fact, the original disclosure appeared to suggest that short fiber or non-woven fibers of glass would have been incorporated within the resin films used as a sealing material and the use of the same would have been viewed as actually use of a preimpregnated reinforcing material (a prepreg) to form the laminate. While the original disclosure did disclose the use of films which included glass microspheres therein as the sealing material, there is no



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clear recitation of the exclusion of prepreg materials for this layer (the use of short glass fibers of nonwovens of glass was an alternative to the use of microspheres in the layer). One viewing the same when reading the specification as a whole would not have ascertained that applicant was in possession of the exclusion of prepreg materials in the assembly.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 4-6 and 10-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 13, line 2, the language "the prepreg material" appears which lacks proper antecedent basis because no prepreg material has been previously defined. It would appear that the word "the" should be changed to --a--.

Additionally, in claims 6 and 13, the applicant recites that the process was preformed without using prepreg material, however the language used to define the same is not clear and concise in its scope. The exact scope of the term "prepreg" is not defined in the specification. It should be noted that resin with glass fibers therein would appear to constitute a prepreg material, however the claims as presented appears to exclude the use of the same. the exact scope of the term "prepreg" cannot be ascertained.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The reference to Clarke suggested the addition of a syntactic resin layer with

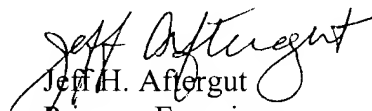
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adhesive to a honeycomb core. The reference to UK 1,498,755 and UK 1,517,910 suggested addition of microspheres with resin in order to alter the viscosity (flow properties) of the resin material.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 703-308-2069. The examiner can normally be reached on Monday-Friday 6:30-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael W. Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
Jeff H. Aftergut  
Primary Examiner  
Art Unit 1733

JHA  
May 21, 2002